



U.S. Department of Justice
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August 1, 2023

By ECF

The Honorable Maryellen Noreika
U.S. District Judge
U.S. District Court for the District of Delaware
J. Caleb Boggs Federal Building
844 N. King Street
Wilmington, Delaware 19801

Re: *United States v. Biden*, Criminal Action Nos. 23-mj-274 & 23-cr-61

Dear Judge Noreika:

In response to a request from a news organization, Your Honor asked for the Government's position on docketing the proposed plea and diversion agreements discussed at the hearing held on July 26, 2023. Federal Rule of Criminal Procedure 11 requires that "[t]he parties must disclose [a] plea agreement in open court when the plea is offered, unless the court for good cause allows the parties to disclose the plea agreement in camera." Fed. R. Crim. P. 11(c)(2). That is why the Government tendered the plea agreement to the Court at the beginning of the hearing on July 26—so that it could be docketed. And though diversion agreements are simply contracts between the Government and a defendant and there is no requirement that they be made public, the Government and the Defendant expressly agreed that this diversion agreement would be public. Specifically, paragraph 16 of the agreement states that the "Agreement, the attached Statement of Facts (Attachment A), the Information, and any order related thereto shall be publicly filed in the United States District Court for the District of Delaware." The Government included that provision in the agreement in the interest of openness in this matter of public concern. Thus, the Government has no objection to docketing the proposed plea and diversion agreements.

Respectfully submitted,

DAVID C. WEISS
United States Attorney

Bv:

Lw /oline

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